



Department of Defense **DIRECTIVE**

December 9, 1994
NUMBER 1010.1

ASD(SOLIC)

SUBJECT : Military Personnel Drug Abuse Testing Program

- References :
- (a) DoD Directive 1010.1, "Drug Abuse Testing Program, " December 28, 1984 (hereby canceled)
 - (b) DoD Directive 1010.4, " Alcohol and Drug Abuse by DoD Personnel, " August 25, 1980
 - (c) DoD Instruction 1010.16, "Technical procedures for the Military Personnel Drug Abuse Testing Program, " December 9, 1994
 - (d) Assistant Secretary of Defense (Health Affairs) Memorandum, "Urinalysis Testing for Cocaine, " JULY 29, 1986 (hereby canceled)
 - (e) through (k) , see enclosure 1

A. REISSUANCE AND PURPOSE

This Directive:

1. Reissues reference (a) to update policy and responsibilities on drug abuse urinalysis programs for military personnel under reference (b) . Technical instructions are provided in reference (c) .
2. Supersedes references (d) , (e) , and (f) -
3. Continues to provide policy on the basis for conducting urinalyses and defines the use of urinalysis results.
4. Incorporates the policy on abuse of anabolic steroids .

B. APPLICABILITY AND SCOPE

This Directive applies to:

1. The Office of the Secretary of Defense, the Military Departments (including the Coast Guard when it is operating as a Military Service in the Navy) , the Chairman of the Joint Chiefs of Staff, the Unified Combatant Commands, the Inspector General of the Department of Defense, the Uniformed Services University

of the Health Sciences, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "the DoD Components") . The term "Military Services, " as used herein, refers to the Army, the Navy, the Air Force, and the Marine Corps .

2. Tests conducted under the Military Personnel Drug Abuse Testing Program after January 1, 1995. This program is not intended to encompass testing in support of criminal investigations or clinical diagnostic procedures.

C. POLICY

1. It is DoD policy to:

a. Use drug testing to deter Military Service members, including those members on initial entry on active duty after enlistment or appointment, from abusing drugs (including illegal drugs and other illicit substances) .

b. Use drug testing to permit commanders to detect drug abuse and assess the security, military fitness, readiness, good order, and discipline of their commands.

c. Use drug testing as a basis to take action, adverse or otherwise (including referral for treatment) , against a Service member based on a positive test result.

d. Ensure that urine specimens collected as part of the drug abuse testing program are supported by a proper chain of custody procedure at the collection site, during transport, and at the drug testing laboratory.

e. Ensure that all military specimens are tested by a DoD-certified drug testing laboratory, except as permitted by DoD Instruction 1010.16 (reference (c)) .

f. Recognize the illicit use of anabolic steroids by military members as an offense under the Uniform Code of Military Justice (UCMJ) and Section 978 of 10, U.S.C. (reference (g)), and treat that use in the same manner as other illicit drug use, since anabolic steroids were established as "controlled substances" as listed by Sections 802 and 812 of 21, U.S.C. (1994 Supp.) (reference (h)).

2. The Military Department designated as an "Executive Agent" shall oversee drug testing of assigned Joint-Service personnel using the same procedures and testing laboratories as used for the military personnel of that Service. The "Executive Agent" shall ensure that personnel from Joint-Service commands, operations, and schools are tested and that the rate of testing is consistent with this Directive and Service regulations. When no Executive Agent has been designated, the joint command shall coordinate with a Military Department for support.

3. Circumstances for Urinalysis Testing

a. Inspection. During an inspection or examination of all or part of a unit conducted in accordance with the Military Rule of Evidence 313, MCM, 1984, reference (i) .

b. Probable Cause. During a probable cause search or seizure when there is reasonable belief that the urine to be collected contains evidence of illegal drug use, in accordance with the Military Rule of Evidence 315 of reference (i) .

c. Consent. When provided voluntarily by a Service member as part of a consent search conducted, in accordance with the Military Rule of Evidence 314(e) of reference (i) .

d. Rehabilitation. During a Service member's participation in a drug treatment and rehabilitation program, as prescribed by the Military Department concerned.

e. Safety Mishap. Following any incident that may be considered a safety mishap under the regulations of the Service involved, a specimen may be collected from any individual directly or indirectly involved. Samples so collected may be used for any lawful purpose, including but not limited to: use consistent with the Military Rules of Evidence, disciplinary action under the UCMJ (reference (9)) , or inclusion as independently collected evidence in a safety mishap investigation or other investigations . Specimens subsequently collected as part of a mishap investigation, formally convened in accordance with Service regulations, will be collected, tested, and reported out in a manner consistent with DoD Instruction 6055.7 (reference (j)) and applicable Service instructions. The results of the testing of those specimens may be protected and of limited use as determined by applicable Service regulations.

f. Command-Directed. During a command-directed examination of a Service member to determine the Service member's competence for duty or the need for counseling, rehabilitation, or other medical treatment when the commander has reason to question the Service member's competence for duty (i.e., aberrant, bizarre, or uncharacteristic behavior; unauthorized absences; violations of safety regulations; breaches of discipline; or other similar behavior) .

g. Medical. During any examination for a valid medical purpose, such as emergency treatment, periodic physical examinations, and such other medical examinations as are necessary for diagnostic or treatment purposes in accordance with Military Rule of Evidence 312, reference (i) .

h. New Entrant. During the preaccession physical or initial period of military service (including a Reserve component) . The policy on preaccession or new entrant drug testing and dependency evaluation is described in DoD Instruction 1010.16 (reference (c)).

i. Other. Under other circumstances, as allowed by reference (i) .

4. Use of Urinalysis Results

a. Urinalysis results may be used as evidence in disciplinary actions under the UCMJ (reference (g)) and in all adverse administrative actions (including separation from the Military Service) , except in the following circumstances when:

(1) A Service member voluntarily submits to a DoD treatment and rehabilitation program (before the receipt of an order to appear for a lawful urinalysis) or the urinalysis is administered as an integral part of the rehabilitation program. This limitation does not apply to, or prohibit the use of, the urinalysis results:

(a) As required for national security, such as suspension and processing for removal of access to classified information; retention in a sensitive position; or

(b) If the Service member is considered a rehabilitation failure of that program, except that tests conducted as an integral part of the rehabilitation program will continue to be protected by limited use; or

(c) If the information substantiates continued drug abuse after initial entry into the treatment or rehabilitation program, except that tests conducted as an integral part of the rehabilitation program will continue to be protected by limited use; or

(d) The outcome of the positive result is a non-punitive or administrative action, including separation for drug abuse. Any separation based on such records may not be under other than honorable conditions.

(2) A Service member is tested for possible drug use as part of a limited use safety mishap investigation undertaken for accident analysis and the development of countermeasures. Testing procedures and requirements prescribed by DoD Instruction 6055.7 (reference (j)) shall apply. Results may be used in administrative actions, including separation, but not in an action under the UCMJ (reference (g)) or be considered in the issue of characterization of Service in a separation proceeding.

(3) A Service member is tested for possible drug use as part of a command-directed urinalysis, as in paragraph C.3.f. , above. Results of a command-directed urinalysis test may be used as a basis for administrative action, including separation, but shall not be used as the basis for an action under the UCMJ (reference (g)) or be considered in the issue of characterization of service in a separation proceeding.

(4) A Service member is tested positive on a field test .

(a) The analytical results of all urine specimens tested positive on a field test and sent to a certified laboratory for initial and confirmatory testing are considered preliminary until they are confirmed as positive, at which time the specimen will be treated as any other positive specimen.

(b) Before receipt of the report of test results from a drug testing laboratory or an admission by the Service member, positive results from field tests may be used only for the following:

1 Temporary transfer or suspension from duty of personnel serving in sensitive duty positions or in positions where drug abuse poses an immediate danger to the

safety, health, or welfare of others, or to the national security.

2 Temporary suspension of access to classified information.

(c) If a field test result is not confirmed as positive by a laboratory certified to test specimens from Service members or acknowledged by an admission by the Service member:

1 The result may not be used to take further adverse action against the Service member in a disciplinary or administrative proceeding.

2 Any action based on the field test result shall be rescinded or terminated and the member shall be reinstated as if the screen positive had not occurred.

(d) To the extent an action is based on evidence other than the field test result, nothing in subparagraph C.4.a. (4), above, prohibits continuation of temporary action.

(5) A Service member is tested positive for a controlled substance for which he or she has a valid prescription from competent medical authority.

b. The limitations in subparagraphs C.4.a. (1) through C.4.a. (4), above, shall not apply when urinalysis results are used as evidence for impeachment or rebuttal purposes in any administrative or disciplinary proceeding in which the Service member first introduces the evidence of drug abuse (or lack, thereof) .

c. This Directive is not intended to prohibit the Government from using, as rebuttal, urinalysis testing data that show the presence of controlled substances, although not in sufficient quantity to meet the cutoff level for a positive result that has been administratively established in memoranda by the Coordinator for Drug Enforcement Policy and Support (CDEP&S) . This provision is specifically intended to permit the Government. to use such results in rebuttal to explain, contradict, dispel, or disprove evidence first produced by a Service member before either a military court or an administrative board that indicates or implies that the test results show or are tantamount to a showing that the member did not use controlled substances.

5. Records of the identity, diagnosis, prognosis, or treatment of any rehabilitant that are maintained in the performance of any drug abuse rehabilitation program conducted, regulated, or directly or indirectly assisted by any Department or Agency of the United States may not be used to initiate or substantiate any criminal charges against the rehabilitant or as a basis for any investigation of a Service member in the DoD Rehabilitation Program, except as authorized by a court order issued under 42 U.S.C. 290dd-2 (reference (k)) and as allowed in paragraph C.4.a, above.

D. RESPONSIBILITIES

1. The DoD coordinator for Drug Enforcement Policy and Support, under the Under Secretary of Defense for Policy shall :

a. Develop and promulgate policy on the deterrence and detection of drug abuse and shall establish the policies, procedures, and standards for the technical aspects of the Military Personnel Drug Abuse Testing Program.

b. Maintain a certification program for drug testing laboratories to test specimens from military personnel and ensure quality and accuracy in the drug analyses performed by each drug testing laboratory.

c. With the coordination of the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), ensure that deterrence of drug abuse begins upon entrance to active duty.

d. With the coordination of the USD(P&R), ensure that members of the Reserve components (including National Guard) are subject to drug testing and other deterrent programs and ensure that drug abuse reduction policies and regulations are issued to deter drug abuse upon entrance into the Reserve components.

e. Maintain an inspection process for the DoD-certified drug testing laboratories.

2. The Secretaries of the Military Departments shall:

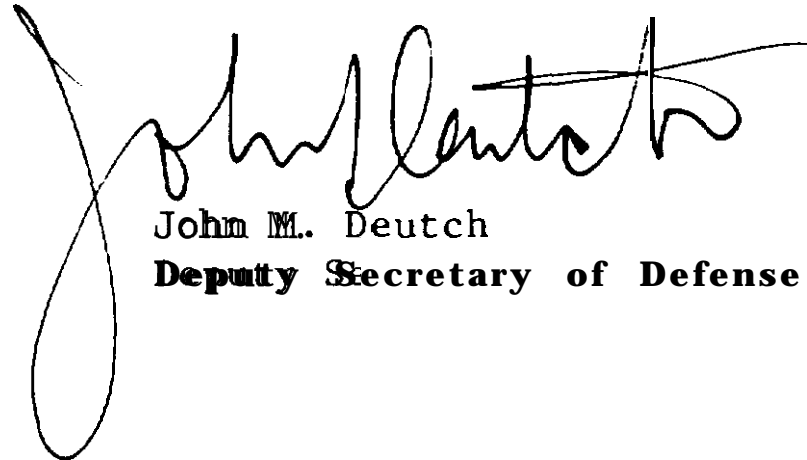
a. Operate forensic drug testing laboratories with sufficient capacity to meet established testing requirements.

b. Issue guidance directing testing by urinalysis on an unannounced and random basis, and complete random testing at a

rate approved by the CDEP&S. The minimum rate of testing is one random sample per active duty member each year. Exceptions must be approved by the Deputy Assistant Secretary of Defense (Drug Enforcement Policy and Support) (DASD(DEP&S)). Minimum rates of testing for the Reserve components shall be established by the Secretary of the Military Department concerned and approved by the DASD(DEP&S). Consistent with available resources and constraints on training time, Reserve component (and National Guard) minimum rates of random testing should be as close as possible to rates established for the active forces.

E. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective immediately. Forward two copies of implementing documents to the DoD Coordinator for Drug Enforcement Policy and Support within 120 days.



John M. Deutch
Deputy Secretary of Defense

Enclosure - 1
1. References

REFERENCE. continued

- (e) Assistant Secretary of Defense (Health Affairs)
Memorandum, "Interim Changes to DoD Directive 1010.1, "
March 1, 1989 (hereby canceled)
- (f) Acting DoD Coordinator for Drug Enforcement Policy and
Support Memorandum, "Interim Policy on Anabolic Steroids, "
October 20, 1993 (hereby canceled)
- (g) Sections 801-940 (Uniform Code of Military Justice) and
Section 978 of title 10, United States Code
- (h) Section 802 and 812 of title 21, United States Code (1994
Supp.)
- (i) Military Rules of Evidence 311-317, Manual for Courts-
Martial, United States, 1984
- (j) DoD Instruction 6055.7, "Mishap Investigation, Reporting
and Recordkeeping, " April 10, 1989
- (k) Section 290dd-2 of title 42, United States Code